

FIRST REGULAR SESSION

HOUSE BILL NO. 215

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BRAY, RIZZO (Co-sponsors), WILLIAMS, RELFORD,
BOUCHER, KELLEY (47), FROELKER, KELLY (27), DOUGHERTY, DOLAN, LEVIN,
JOHNSON (61), GAMBARO AND WALTON.

Pre-filed December 28, 2000, and 1000 copies ordered printed.

ANNE C. WALKER, Chief Clerk

0218L.011

AN ACT

To repeal sections 135.400, 135.403, 135.408, 135.411, 135.423, 348.300, 348.302, 447.708, 620.1400, 620.1410, 620.1420, 620.1430, 620.1440, 620.1450 and 620.1460, RSMo 2000, section 135.535 as enacted by house bill no. 701 of the first regular session of the ninetieth general assembly and section 135.535 as enacted by senate bill no. 20 of the first regular session of the ninetieth general assembly, relating to tax relief in distressed communities, and to enact in lieu thereof nine new sections relating to the same subject, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 135.400, 135.403, 135.408, 135.411, 135.423, 348.300, 348.302, 447.708, 620.1400, 620.1410, 620.1420, 620.1430, 620.1440, 620.1450 and 620.1460, RSMo 2000, section 135.535 as enacted by house bill no. 701 of the first regular session of the ninetieth general assembly and section 135.535 as enacted by senate bill no. 20 of the first regular session of the ninetieth general assembly, are repealed and nine new sections enacted in lieu thereof, to be known as sections 135.400, 135.403, 135.408, 135.411, 135.423, 135.535, 348.300, 348.302 and 447.708, to read as follows:

135.400. As used in sections 135.400 to 135.430, the following terms mean:

- (1) "Certificate", a tax credit certificate issued by the department of economic development in accordance with sections 135.400 to 135.430;
- (2) "Community bank", either a bank community development corporation or development bank, which are financial organizations which receive investments from

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

6 commercial financial institutions regulated by the federal reserve, the office of the comptroller
7 of the currency, the office of thrift supervision, or the Missouri division of finance. Community
8 banks, in addition to their other privileges, shall be allowed to make loans to businesses or equity
9 investments in businesses or in real estate provided that such transactions have associated public
10 benefits;

11 (3) "Community development corporation", [a not for profit corporation and a recipient
12 of Community Development Block Grant (CDBG) funds pursuant to the Housing Community
13 Development Act of 1974. Such corporations design specific, comprehensive programs to
14 stimulate economic development, housing or other public benefits leading to the development
15 of economically sustainable neighborhoods or communities] **a not-for-profit corporation**
16 **whose board of directors is composed of business, civic and community leaders, and whose**
17 **primary purpose is to encourage and promote the industrial, economic, entrepreneurial,**
18 **commercial and civic development or redevelopment of a community or area, including the**
19 **provision of housing and community economic development projects that benefit low-**
20 **income individuals and communities;**

21 (4) "Department", the Missouri department of economic development;

22 (5) "Director", the director of the department of economic development, or a person
23 acting under the supervision of the director;

24 (6) "Investment", a transaction in which a Missouri small business or a community bank
25 receives a monetary benefit from an investor pursuant to the provisions of sections 135.403 to
26 135.414;

27 (7) "Investor", an individual, partnership, financial institution, trust or corporation
28 meeting the eligibility requirements of sections 135.403 to 135.414. In the case of partnerships
29 and nontaxable trusts, the individual partners or beneficiaries shall be treated as the investors;

30 (8) "Missouri small business", an independently owned and operated business as defined
31 in Title 15 U.S.C. Section 632(a) and as described by Title 13 C.F.R. Part 121, which is
32 headquartered in Missouri and which employs at least eighty percent of its employees in
33 Missouri, except that no such small business shall employ more than one hundred employees.
34 Such businesses must be involved in interstate or intrastate commerce for the purpose of
35 manufacturing, processing or assembling products, conducting research and development, or
36 providing services in interstate commerce, but excluding retail, real estate, insurance or
37 professional services. For the purpose of qualifying for the tax credit pursuant to sections
38 135.400 to 135.430, "Missouri small business" shall include cooperative marketing associations
39 organized pursuant to chapter 274, RSMo, which are engaged in the business of producing and
40 marketing fuels derived from agriculture commodities, without regard for whether a cooperative
41 marketing association has more than one hundred employees. Cooperative marketing

42 associations organized pursuant to chapter 274, RSMo, shall not be required to comply with the
43 requirements of section 135.414;

44 (9) "Primary employment", work which pays at least the minimum wage and which is
45 not seasonal or part-time;

46 (10) "Principal owners", one or more persons who own an aggregate of [fifty] **thirty-five**
47 percent or more of the Missouri small business and who are involved in the operation of the
48 business as a full-time professional activity;

49 (11) "Project", any commercial or industrial business or other economic development
50 activity undertaken in a target area, designed to reduce conditions of blight, unemployment or
51 widespread reliance on public assistance which creates permanent primary employment
52 opportunities;

53 (12) "State tax liability", any liability incurred by a taxpayer pursuant to the provisions
54 of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, section 375.916, RSMo, and
55 chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided
56 for in sections 143.191 to 143.265, RSMo, and related provisions[;

57 (13) "Target area", a group of blocks or a self-defined neighborhood where the rate of
58 poverty in the area is greater than twice the national poverty rate and as defined by the
59 department of social services in conjunction with the department of economic development.
60 Areas of the state satisfying the criteria of this subdivision may be designated as a "target area"
61 following appropriate findings made and certified by the departments of economic development
62 and social services. In making such findings, the departments of economic development and
63 social services may use any commonly recognized records and statistical indices published or
64 made available by any agency or instrumentality of the federal or state government. No area of
65 the state shall be a target area until so certified by the department of social services and the
66 revitalization plan submitted pursuant to section 208.335, RSMo, has received approval].

135.403. 1. Any investor who makes a qualified investment in a Missouri small business
2 shall be entitled to receive a tax credit equal to forty percent of the amount of the investment or,
3 in the case of a qualified investment in a Missouri small business in a distressed community as
4 defined by section 135.530, a credit equal to sixty percent of the amount of the investment, and
5 any investor who makes a qualified investment in a community bank or a community
6 development corporation shall be entitled to receive a tax credit equal to fifty percent of the
7 amount of the investment if the investment is made in a community bank or community
8 development corporation for direct investment. The total amount of tax credits available for
9 qualified investments in Missouri small businesses shall not exceed [thirteen] **five million five**
10 **hundred thousand** dollars **per year** and at least [four] **two million seven hundred fifty**
11 **thousand** dollars **per year** of the amount authorized by this section and certified by the

12 department of economic development shall be for investment in Missouri small businesses in
13 distressed communities. Authorization for all or any part of this [four] **two** million [dollar
14 amount] **seven hundred fifty thousand dollars per year** shall in no way restrict the eligibility
15 of Missouri small businesses in distressed communities, as defined in section 135.530, for the
16 remaining amounts authorized within this section. No more than twenty percent of the tax
17 credits available each year for investments in community banks or community development
18 corporations for direct investment shall be certified for any one project, as defined in section
19 135.400. The tax credit shall be evidenced by a tax credit certificate in accordance with the
20 provisions of sections 135.400 to 135.430 and may be used to satisfy the state tax liability of the
21 owner of the certificate that becomes due in the tax year in which the qualified investment is
22 made, or in any of the [ten] **five** tax years thereafter. When the qualified small business is in a
23 distressed community, as defined in section 135.530, the tax credit may also be used to satisfy
24 the state tax liability of the owner of the certificate that was due during each of the previous three
25 years in addition to the year in which the investment is made and any of the [ten] **five** years
26 thereafter. No investor may receive a tax credit pursuant to sections 135.400 to 135.430 unless
27 that person presents a tax credit certificate to the department of revenue for payment of such state
28 tax liability. The department of revenue shall grant tax credits in the same order as established
29 by subsection 1 of section 32.115, RSMo. Subject to the provisions of sections 135.400 to
30 135.430, certificates of tax credit issued in accordance with these sections may be transferred,
31 sold or assigned by **filing a** notarized endorsement thereof **with the department** which names
32 the transferee **and the amount of tax credit transferred**.

33 2. [Five hundred thousand] **One million** dollars in tax credits shall be available annually
34 from the total amount of tax credits authorized by section 32.110, RSMo, and subdivision (4)
35 of subsection 2 of section 32.115, RSMo, as a result of investments in community banks or
36 community development corporations. Aggregate investments eligible for tax credits in any one
37 Missouri small business shall not be more than one million dollars. Aggregate investments
38 eligible for tax credits in any one Missouri small business shall not be less than five thousand
39 dollars as of the date of issuance of the first tax credit certificate for investment in that business.

135.408. A qualified investment in a Missouri small business may be made either
2 through an unsecured loan or the purchase of equity or unsecured debt securities of such
3 business. Investors in a small business qualifying for tax credits [under] **pursuant to** the
4 provisions of sections 135.400 to 135.430, however, must collectively own less than [fifty] **sixty-**
5 **five** percent of a business after their investments are made. Qualified investments in a Missouri
6 small business must be expended for capital improvements, plant, equipment, research and
7 development, or working capital for the business or such business activity as may be approved
8 by the department.

135.411. The amount of the qualified investment made in a Missouri small business must remain in that business for a minimum of [five] **three years and, if the business is in a distressed community, it must remain in the distressed community for a minimum of five years.** Withdrawal of the investment prior to the minimum [five-year] period shall result in revocation of the tax credit, and repayment of any amounts of the tax credit already applied against the investor's state tax liability, **but the department may pro rate the revocation or repayment authorized by this section. The sale, change in control or going public of a business shall not trigger such a revocation if the business continues to operate.**

135.423. **Except as otherwise provided in this section,** the department may revoke a tax credit certificate **issued pursuant to sections 135.400 to 135.430 or enforce repayment of any amounts of the tax credit already applied against the investor's state liability** if any representation to the department in connection with the application proves to have been false when made or if the application violates any conditions established by the department and stated in the tax credit certificate. The revocation may be in full or in part as the department may determine. The department shall specify the amount of credit being revoked and shall send notice of the revocation to the investor and to the state department of revenue. **Any revocation, partial revocation or repayment of a tax credit issued pursuant to sections 135.400 to 135.430 shall apply only to the original applicant for the tax credit and not to a good faith subsequent purchaser or transferee thereof.**

[135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than seventy-five percent of its employees at the facility in the distressed community, and which has fewer than one hundred employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic development, by means of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall assign appropriate standard industrial classification numbers to the companies which are eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company

21 which moves its operations from outside of Missouri or outside of a distressed
22 community into a distressed community or to a company which commences
23 operations within a distressed community. A taxpayer shall file an application for
24 certification of the tax credits for the first year in which credits are claimed and for
25 each of the two succeeding taxable years for which credits are claimed.

26 2. Employees of such facilities physically working and earning wages for that
27 work within a distressed community whose employers have been approved for tax
28 credits pursuant to subsection 1 of this section by the department of economic
29 development for whom payroll taxes are paid shall, also be eligible to receive a tax
30 credit against individual income tax, imposed pursuant to chapter 143, RSMo, equal
31 to one and one-half percent of their gross salary paid at such facility earned for each
32 of the three years that the facility receives the tax credit provided by this section, so
33 long as they were qualified employees of such entity. The employer shall calculate
34 the amount of such credit and shall report the amount to the employee and the
35 department of revenue.

36 3. A tax credit against income taxes owed pursuant to chapter 143, 147 or
37 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265,
38 RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this
39 section, may be taken by such an entity in a distressed community in an amount of
40 forty percent of the amount of funds expended for computer equipment and its
41 maintenance, medical laboratories and equipment, research laboratory equipment,
42 manufacturing equipment, fiber optic equipment, high speed telecommunications,
43 wiring or software development expense up to a maximum of seventy-five thousand
44 dollars in tax credits for such equipment or expense per year per entity and for each
45 of three years after commencement in or moving operations into a distressed
46 community. A corporation, partnership or sole proprietorship, which has no more
47 than one hundred employees for whom payroll taxes are paid, and which is already
48 located in a distressed community, which expends funds for such equipment as set
49 forth in this subsection in an amount exceeding its average of the prior two years for
50 such equipment, shall be eligible to receive a twenty-five percent tax credit against
51 income taxes owed pursuant to chapters 143, 147 and 148, RSMo, up to a maximum
52 of seventy-five thousand dollars in tax credits for such additional equipment and
53 expense per such entity. Tax credits pursuant to this subsection or subsection 1 may
54 be used to satisfy the state tax liability due in the tax year the credit is certified, and
55 that was due during the previous three years, and in any of the five tax years
56 thereafter.

57 4. Tax credits shall be approved for applicants meeting the requirements of
58 this section in the order that such applications are received. Certificates of tax credits
59 issued in accordance with this section may be transferred, sold or assigned by
60 notarized endorsement which names the transferee.

61 5. The tax credits allowed pursuant to subsections 1, 2 and 3 of this section
62 shall be for an amount of no more than ten million dollars for each year beginning
63 in 1999. The total maximum credit for all entities already located in distressed

communities and claiming credits pursuant to subsection 3 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 4 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

6. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1 or 3 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining agreement covering employees at the facility, unless the affected collective bargaining unit concurs with the move.

7. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same business for the same tax period.

8. An existing business located within a distressed community, that hires new employees within such distressed communities may be eligible for the tax credits provided in this section. In order to be eligible for such tax credits, the business located within the distressed community, during one of its tax years, must employ within such distressed communities at least twice as many workers as were employed at the beginning of that tax year. Prior to the addition of the new employees, the business shall have no more than one hundred employees. The provisions of this section shall apply only to a business which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, or telecommunications business or a professional firm.]

135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than [seventy-five] **sixty** percent of its employees at [the facility] **facilities** in [the] distressed [community] **communities**, and which has fewer than one hundred **fifty** employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to

11 143.265, RSMo, for each of the three years after such move, if approved by the department of
12 economic development, which shall issue a certificate of eligibility if the department determines
13 that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set
14 forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the
15 three years for which the credit is claimed. The department of economic development, by means
16 of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall [assign]
17 **specify which** appropriate standard industrial classification numbers [to the companies which
18 are], **or North American Industrial Classification System numbers assigned to a business**
19 **make the business** eligible for the tax credits provided for in this section. Such three-year
20 credits shall be awarded only one time to any company which moves its operations from outside
21 of Missouri or outside of a distressed community into a distressed community or to a company
22 which commences operations within a distressed community. A taxpayer shall file an application
23 for certification of the tax credits for the first year in which credits are claimed and for each of
24 the two succeeding taxable years for which credits are claimed.

25 2. Employees of such facilities physically working and earning wages for that work
26 within a distressed community whose employers have been approved for tax credits pursuant to
27 subsection 1 of this section by the department of economic development for whom payroll taxes
28 are paid shall, also be eligible to receive a tax credit against individual income tax, imposed
29 pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at
30 such facility earned for each of the three years that the facility receives the tax credit provided
31 by this section, so long as they were qualified employees of such entity. The employer shall
32 calculate the amount of such credit and shall report the amount to the employee and the
33 department of revenue.

34 3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo,
35 other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the credit
36 against income taxes as provided in subsection 1 of this section, may be taken by such an entity
37 in a distressed community in an amount of forty percent of the amount of funds expended for **the**
38 **purchase of or at least a two-year lease of** computer equipment and its maintenance, medical
39 laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic
40 equipment, high speed telecommunications, wiring or software development expense up to a
41 maximum of [seventy-five] **one hundred fifty** thousand dollars in tax credits for such equipment
42 or expense per year per entity and for each of three years after commencement in or moving
43 operations into a distressed community. **The maximum tax credit allowed pursuant to this**
44 **subsection shall apply to entities which have previously qualified for a tax credit pursuant**
45 **to this subsection for future tax years for which such entities qualify.**

46 4. A corporation, partnership or sole partnership, which has no more than one hundred
47 employees for whom payroll taxes are paid, which is already located in a distressed community
48 and which expends funds for such equipment pursuant to subsection 3 of this section in an
49 amount exceeding its average of the prior two years for such equipment, shall be eligible to
50 receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo,
51 in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the
52 funds expended for such additional equipment per such entity. Tax credits allowed pursuant to
53 this subsection or subsection 1 of this section may be carried back to any of the three prior tax
54 years and carried forward to any of the five tax years.

55 5. An existing corporation, partnership or sole proprietorship that is located within a
56 distressed community and that relocates employees from another facility outside of the distressed
57 community to its facility within the distressed community, and an existing business located
58 within a distressed community that hires new employees for that facility may both be eligible for
59 the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such tax credits,
60 such a business, during one of its tax years, shall employ within a distressed community at least
61 twice as many employees as were employed at the beginning of that tax year. A business hiring
62 employees shall have no more than [one] **two** hundred employees **in the distressed community**
63 before the addition of the new employees. This subsection shall only apply to a business which
64 is a manufacturing, biomedical, medical devices, scientific research, animal research, computer
65 software design or development, computer programming or telecommunications business, or a
66 professional firm.

67 6. Tax credits shall be approved for applicants meeting the requirements of this section
68 in the order that such applications are received. Certificates of tax credits issued in accordance
69 with this section may be transferred, sold or assigned by **filing a** notarized endorsement **thereof**
70 **with the department** which names the transferee **and the amount of tax credits transferred,**
71 **and any revocation, partial revocation or repayment of a tax credit issued pursuant to this**
72 **section shall apply only to the original applicant for the tax credit and not to a good faith**
73 **subsequent purchaser or transferee thereof.**

74 7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall
75 be for an amount of no more than ten million dollars for each year beginning in 1999. The total
76 maximum credit for all entities already located in distressed communities and claiming credits
77 pursuant to subsection 4 of this section shall be seven hundred and fifty thousand dollars. The
78 department of economic development in approving taxpayers for the credit as provided for in
79 subsection 6 of this section shall use information provided by the department of revenue
80 regarding taxes paid in the previous year, or projected taxes for those entities newly established

81 in the state, as the method of determining when this maximum will be reached and shall maintain
82 a record of the order of approval. Any tax credit not used in the period for which the credit was
83 approved may be carried over until the full credit has been allowed. **If the total amount of tax**
84 **credits authorized pursuant to subsections 1, 2 and 3 of this section is not used in a given**
85 **year, then such excess portion shall be added to the maximum amount of tax credits**
86 **available pursuant to subsection 2 of section 348.302, RSMo, for the following year.**

87 8. A Missouri employer relocating into a distressed community and having employees
88 covered by a collective bargaining agreement at the facility from which it is relocating shall not
89 be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not be
90 eligible for the credit in subsection 2 of this section if the relocation violates or terminates a
91 collective bargaining agreement covering employees at the facility, unless the affected collective
92 bargaining unit concurs with the move.

93 9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax
94 credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the
95 tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and
96 135.245, respectively, for the same business for the same tax period. **A change in ownership**
97 **or control of a taxpayer shall not revoke or otherwise restrict the tax credits allowed**
98 **pursuant to this section.**

348.300. As used in sections 348.300 to 348.318, the following terms mean:

2 (1) "Commercial activity located in Missouri", any research, development, prototype
3 fabrication, and subsequent precommercialization activity, or any activity related thereto,
4 conducted in Missouri for the purpose of producing a service or a product or process for
5 manufacture, assembly or sale or developing a service based on such a product or process by any
6 person, corporation, partnership, joint venture, unincorporated association, trust or other
7 organization doing business in Missouri. Subsequent to January 1, 1999, a commercial activity
8 located in Missouri shall mean only such activity that is located within a distressed community,
9 as defined in section 135.530, RSMo;

10 (2) "Follow-up capital", capital provided to a commercial activity located in Missouri
11 **or any other Missouri business** in which a qualified fund has previously invested seed capital
12 or start-up capital **within the previous three years** and which does not exceed ten times the
13 amount of such seed and start-up capital;

14 (3) "Qualified contribution", cash contribution to a qualified fund;

15 (4) "Qualified economic development organization", any corporation organized under
16 the provisions of chapter 355, RSMo, which has as of January 1, 1991, obtained a contract with
17 the department of economic development to operate an innovation center to promote, assist and
18 coordinate the research and development of new services, products or processes in the state of

19 Missouri; and the Missouri technology corporation organized pursuant to the provisions of
20 sections 348.253 to 348.266;

21 (5) "Qualified fund", any corporation, partnership, joint venture, unincorporated
22 association, trust or other organization which is established under the laws of Missouri after
23 December 31, 1985, which meets all of the following requirements established by this
24 subdivision. The fund shall have as its sole purpose and business the making of investments, of
25 which at least ninety percent of the dollars invested shall be qualified investments. The fund
26 shall enter into a contract with one or more qualified economic development organizations which
27 shall entitle the qualified economic development organizations to receive not less than ten
28 percent of all distributions of equity and dividends or other earnings of the fund. Such contracts
29 shall require the qualified fund to transfer to the Missouri technology corporation organized
30 pursuant to the provisions of sections 348.253 to 348.266, this interest and make corresponding
31 distributions thereto in the event the qualified economic development organization holding such
32 interest is dissolved or ceases to do business for a period of one year or more;

33 (6) "Qualified investment", any investment of seed capital, start-up capital, or follow-up
34 capital in any commercial activity located in Missouri;

35 (7) "Person", any individual, corporation, partnership or other entity;

36 (8) "Seed capital", capital provided to a commercial activity located in Missouri for
37 research, development and precommercialization activities to prove a concept for a new product
38 or process or service, and for activities related thereto;

39 (9) "Start-up capital", capital provided to a commercial activity located in Missouri for
40 use in preproduction product development or service development or initial marketing thereof,
41 and for activities related thereto;

42 (10) "State tax liability", any state tax liability incurred by a taxpayer under the
43 provisions of chapters 143, 147 and 148, RSMo, exclusive of the provisions relating to the
44 withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions;

45 (11) "Uninvested capital", the amount of any distribution, other than of earnings, by a
46 qualified fund made within five years of the issuance of a certificate of tax credit as provided by
47 sections 348.300 to 348.318; or the portion of all qualified contributions to a qualified fund
48 which are not invested as qualified investments within five years of the issuance of a certificate
49 of tax credit as provided by sections 348.300 to 348.318 to the extent that the amount not so
50 invested exceeds ten percent of all such qualified contributions.

348.302. 1. Any person who makes a qualified contribution to a qualified fund shall be
2 entitled to receive a tax credit equal to [fifty] **seventy-five** percent of the amount of the qualified
3 contribution. The tax credit shall be evidenced by a tax credit certificate in accordance with the

4 provisions of sections 348.300 to 348.318 and may be used to satisfy the state tax liability of the
5 owner of such certificate that becomes due in the tax year in which the qualified contribution is
6 made, or in any of the ten tax years thereafter. No person may receive a tax credit pursuant to
7 sections 348.300 to 348.318 unless that person presents a tax credit certificate to the department
8 of revenue for payment of such state tax liability.

9 2. The amount of such qualified contributions which can be made is limited so that the
10 aggregate of all tax credits authorized [under] **pursuant to** the provisions of sections 348.300
11 to 348.318 shall not exceed [nine] **four million five hundred thousand dollars per year plus**
12 **any unused amounts from the previous year pursuant to sections 135.535, RSMo.** All tax
13 credits authorized [under] **pursuant to** the provisions of this section may be transferred, sold or
14 assigned **by filing a notarized endorsement thereof with the department which names the**
15 **transferee and the amount of tax credits transferred.**

447.708. 1. For eligible projects, the director of the department of economic
2 development, with notice to the directors of the departments of natural resources and revenue,
3 and subject to the other provisions of sections 447.700 to 447.718, may not create a new
4 enterprise zone but may decide that a prospective operator of a facility being remedied and
5 renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions
6 pursuant to sections 135.100 to 135.150, RSMo, and **sections** 135.200 to [135.256] **135.270,**
7 RSMo. The tax credits allowed pursuant to this subsection shall be used to offset the tax
8 imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to
9 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise
10 imposed by chapter 148, RSMo. For purposes of this subsection:

11 (1) For receipt of the ad valorem tax abatement pursuant to section 135.215, RSMo, the
12 eligible project must create at least ten new jobs or retain businesses which supply at least
13 twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must
14 provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and
15 not more than twenty-five years;

16 (2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax
17 credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and
18 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which
19 supply at least twenty-five existing jobs, or combination thereof. For purposes of sections
20 447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows:
21 the tax credit shall be four hundred dollars per employee per year, an additional four hundred
22 dollars per year for each employee exceeding the minimum employment thresholds of ten and
23 twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars
24 per year for each person who is "a person difficult to employ" as defined by section 135.240,

25 RSMo, and investment tax credits at the same amounts and levels as provided in subdivision (4)
26 of **subsection 1 of** section 135.225, RSMo;

27 (3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo,
28 the eligible project must create at least ten new jobs or retain businesses which supply at least
29 twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of
30 section 135.245, RSMo, for application and use of the refund and the eligibility requirements of
31 this section;

32 (4) The eligible project operates in compliance with applicable environmental laws and
33 regulations, including permitting and registration requirements, of this state as well as the federal
34 and local requirements;

35 (5) The eligible project operator shall file such reports as may be required by the director
36 of economic development or the director's designee;

37 (6) The taxpayer may claim the state tax credits authorized by this subsection and the
38 state income exemption for a period not in excess of ten consecutive tax years. For the purpose
39 of this section, "taxpayer" means an individual proprietorship, partnership or corporation
40 described in section 143.441 or 143.471, RSMo, who operates an eligible project. The director
41 shall determine the number of years the taxpayer may claim the state tax credits and the state
42 income exemption based on the projected net state economic benefits attributed to the eligible
43 project;

44 (7) For the purpose of meeting the new job requirement prescribed in subdivisions (1),
45 (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and
46 maintained during the taxpayer's tax period for which the credits are earned, in the case of an
47 eligible project that does not replace a similar facility in Missouri. "New job" means a person
48 who was not previously employed by the taxpayer or related taxpayer within the twelve-month
49 period immediately preceding the time the person was employed by that taxpayer to work at, or
50 in connection with, the eligible project on a full-time basis. "Full-time basis" means the
51 employee works an average of at least thirty-five hours per week during the taxpayer's tax period
52 for which the tax credits are earned. For the purposes of this section, "related taxpayer" has the
53 same meaning as defined in subdivision [(9)] **(11)** of section 135.100, RSMo;

54 (8) For the purpose of meeting the existing job retention requirement, if the eligible
55 project replaces a similar facility that closed elsewhere in Missouri prior to the end of the
56 taxpayer's tax period in which the tax credits are earned, it shall be required that at least
57 twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time
58 basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a
59 person who was previously employed by the taxpayer or related taxpayer, at a facility similar to
60 the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period

61 in which the tax credits are earned, within the tax period immediately preceding the time the
62 person was employed by the taxpayer to work at, or in connection with, the eligible project on
63 a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five
64 hours per week during the taxpayer's tax period for which the tax credits are earned;

65 (9) In the case where an eligible project replaces a similar facility that closed elsewhere
66 in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the
67 owner and operator of the eligible project shall provide the director with a written statement
68 explaining the reason for discontinuing operations at the closed facility. The statement shall
69 include a comparison of the activities performed at the closed facility prior to the date the facility
70 ceased operating, to the activities performed at the eligible project, and a detailed account
71 describing the need and rationale for relocating to the eligible project. If the director finds the
72 relocation to the eligible project significantly impaired the economic stability of the area in which
73 the closed facility was located, and that such move was detrimental to the overall economic
74 development efforts of the state, the director may deny the taxpayer's request to claim tax
75 benefits;

76 (10) Notwithstanding any provision of law to the contrary, for the purpose of this section,
77 the number of new jobs created and maintained, the number of existing jobs retained, and the
78 value of new qualified investment used at the eligible project during any tax year shall be
79 determined by dividing by twelve, in the case of jobs, the sum of the number of individuals
80 employed at the eligible project, or in the case of new qualified investment, the value of new
81 qualified investment used at the eligible project, on the last business day of each full calendar
82 month of the tax year. If the eligible project is in operation for less than the entire tax year, the
83 number of new jobs created and maintained, the number of existing jobs retained, and the value
84 of new qualified investment created at the eligible project during any tax year shall be determined
85 by dividing the sum of the number of individuals employed at the eligible project, or in the case
86 of new qualified investment, the value of new qualified investment used at the eligible project,
87 on the last business day of each full calendar month during the portion of the tax year during
88 which the eligible project was in operation, by the number of full calendar months during such
89 period;

90 (11) For the purpose of this section, "new qualified investment" means new business
91 facility investment as defined and as determined in subdivision [(7)] (9) of section 135.100,
92 RSMo, which is used at and in connection with the eligible project. "New qualified investment"
93 shall not include small tools, supplies and inventory. "Small tools" means tools that are portable
94 and can be hand held.

95 2. The determination of the director of economic development pursuant to subsection 1
96 of this section, shall not affect requirements for the prospective purchaser to obtain the approval

97 of the granting of real property tax abatement by the municipal or county government where the
98 eligible project is located.

99 3. **(1)** The director of the department of economic development, with the approval of the
100 director of the department of natural resources, may, in addition to the tax credits allowed in
101 subsection 1 of this section, grant a remediation tax credit to the applicant for up to one hundred
102 percent of the costs of materials, supplies, equipment, labor, professional engineering, consulting
103 and architectural fees, permitting fees and expenses, demolition [and], asbestos abatement, and
104 direct utility charges for performing the voluntary remediation activities for the preexisting
105 hazardous substance contamination and releases, including, but not limited to, the costs of
106 performing operation and maintenance of the remediation equipment at the property beyond the
107 year in which the systems and equipment are built and installed at the eligible project and the
108 costs of performing the voluntary remediation activities over a period not in excess of four tax
109 years following the taxpayer's tax year in which the system and equipment were first put into use
110 at the eligible project, provided the remediation activities are the subject of a plan submitted to,
111 and approved by, the director of natural resources pursuant to sections 260.565 to 260.575,
112 RSMo.

113 **(2) The director of the department of economic development, with the approval of**
114 **the director of the department of natural resources, may, in addition to the tax credits**
115 **otherwise allowed in this section, grant a demolition tax credit to the applicant for up to**
116 **one hundred percent of the costs of demolition that is not part of the voluntary remediation**
117 **activities, provided the demolition is part of a redevelopment plan approved by the local**
118 **government entity and the department of economic development.**

119 **(3)** The amount of remediation **and demolition** tax credits issued shall be limited to the
120 least amount necessary to cause the project to occur, as determined by the director of the
121 department of economic development.

122 **(4)** The director may, with the approval of the director of natural resources, extend the
123 tax credits allowed for performing voluntary remediation maintenance activities, in increments
124 of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed
125 in this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding
126 withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed
127 by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The remediation
128 **and demolition** tax [credit] **credits** may be taken in the same tax year in which the tax credits
129 are received or may be taken over a period not to exceed twenty years.

130 **(5)** The project facility [is] **must be** projected to create at least ten new jobs or at least
131 twenty-five retained jobs, or a combination thereof, as determined by the department of economic
132 development, **to be eligible for tax credits under this subsection.**

133 **(6)** No more than seventy-five percent of earned remediation tax credits may be issued
134 when the remediation costs were paid, and the remaining percentage may be issued when the
135 department of natural resources issues a "Letter of Completion" letter or covenant not to sue
136 following completion of the voluntary remediation activities. It shall not include any costs
137 associated with ongoing operational environmental compliance of the facility or remediation
138 costs arising out of spills, leaks, or other releases arising out of the ongoing business operations
139 of the facility.

140 4. In the exercise of the sound discretion of the director of the department of economic
141 development or the director's designee, the tax credits and exemptions described in this section
142 may be terminated, suspended or revoked, if the eligible project fails to continue to meet the
143 conditions set forth in this section. In making such a determination, the director shall consider
144 the severity of the condition violation, actions taken to correct the violation, the frequency of any
145 condition violations and whether the actions exhibit a pattern of conduct by the eligible facility
146 owner and operator. The director shall also consider changes in general economic conditions and
147 the recommendation of the director of the department of natural resources, or his or her designee,
148 concerning the severity, scope, nature, frequency and extent of any violations of the
149 environmental compliance conditions. The taxpayer or person claiming the tax credits or
150 exemptions may appeal the decision regarding termination, suspension or revocation of any tax
151 credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section
152 135.250, RSMo. The director of the department of economic development shall notify the
153 directors of the departments of natural resources and revenue of the termination, suspension or
154 revocation of any tax credits as determined in this section or pursuant to the provisions of section
155 447.716.

156 5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax
157 credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection 1
158 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax credits,
159 exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245,
160 RSMo, respectively, for the same facility for the same tax period.

161 6. The total amount of the tax credits allowed in subsection 1 of this section may not
162 exceed the greater of:

163 (1) That portion of the taxpayer's income attributed to the eligible project; or

164 (2) One hundred percent of the total business' income tax if the eligible facility does not
165 replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax
166 period in which the tax credits are earned, and further provided the taxpayer does not operate any
167 other facilities besides the eligible project in Missouri; fifty percent of the total business' income
168 tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the

end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the total business income if the taxpayer operates, in addition to the eligible facility, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period. That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225, RSMo, and subsection 3 of this section, may apply, shall be determined in the same manner as prescribed in subdivision [(6)] (8) of section 135.100, RSMo. That portion of the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision [(6)] (8) of section 135.100, RSMo.

7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits shall not be carried forward but shall be initially claimed for the tax period during which the eligible project was first capable of being used, and during any applicable subsequent tax periods.

8. Taxpayers claiming the remediation tax credit allowed in subsection 3 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use, or during the taxpayer's tax period immediately after the tax period in which the voluntary remediation activities were performed.

9. The recipient of remediation tax credits, for the purpose of this subsection referred to as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in subsection 3 of this section, to any other person, for the purpose of this subsection referred to as assignee. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address and the assignee's tax period and the amount of tax credits to be transferred. The number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously claimed the credits before the transfer occurred.

10. In the case where an operator and assignor of an eligible project has been certified to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and

205 sells or otherwise transfers title of the eligible project to another taxpayer or assignee who
206 continues the same or substantially similar operations at the eligible project, the director shall
207 allow the assignee to claim the credits for a period of time to be determined by the director;
208 except that, the total number of tax periods the tax credits may be earned by the assignor and the
209 assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice
210 to the director of the assignor's intent to transfer the tax credits to the assignee, the date the
211 transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount
212 of tax credits to be transferred.

213 11. For the purpose of the state tax benefits described in this section, in the case of a
214 corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax
215 liability, such state benefits shall be allowed to the following:

216 (1) The shareholders of the corporation described in section 143.471, RSMo;

217 (2) The partners of the partnership.
218

219 The credit provided in this subsection shall be apportioned to the entities described in
220 subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last
221 day of the taxpayer's tax period.

2 [620.1400. Sections 620.1400 to 620.1460 shall be known and may be cited
3 as the "Missouri Individual Training Account Program Act" and its provisions shall
4 be effective only within distressed communities as defined by section 135.530,
RSMo.]

2 [620.1410. There is hereby established an "Individual Training Account
3 Program" within the department of economic development. Job training and
4 retraining activities conducted pursuant to the provisions of sections 620.1400 to
5 620.1460 shall be directed to employee advancement, where jobs are linked to
6 training before the training commences, and shall emphasize upgrade training where
7 current or potential employers, by means of educational programs, provide existing
8 employees with training for higher skilled positions. Job training activities provided
9 pursuant to the provisions of the individual training account program shall attempt
10 to prepare employed workers, including those with obsolete or inadequate job skills,
11 for positions that remain unfilled or that may be created by current or potential
employers.]

2 [620.1420. As used in sections 620.1400 to 620.1460, the following terms
mean:

3 (1) "Costs of classroom training", the normal costs incurred in the provision
4 of classroom training which may also include specifically identified costs incurred
5 for instructors, classroom space and facilities, administrative support services, and
6 directly related expenses, that together do not exceed the amount normally allowed
7 for support of vocational and technical classes;

8 (2) "Department", the department of economic development;

9 (3) "Employee", a full-time or part-time employed worker whose salary is
10 equal to or less than two hundred percent of the federal poverty level;

11 (4) "Employee upgrade training", the progressive development of skills
12 associated with the defined set of work processes. Such training shall be consistent
13 with a career pattern of advancement, as measured by skill proficiency and the
14 progressive earnings and related benefits, that are recognized within an occupation,
15 trade or industry;

16 (5) "Individual training account", an account funded by the tax credits
17 provided for in section 620.1440 for the provision of employee upgrade training to
18 employees through their participation in classroom training provided by educational
19 institutions;

20 (6) "Local educational institution", a publicly funded or privately funded
21 local educational institution which is certified by a recognized accrediting association
22 as capable of providing adequate classroom training to accomplish the purpose of
23 sections 620.1400 to 620.1460.]

2 [620.1430. 1. A Missouri employer who desires to participate in the
3 individual training account program shall provide the department of economic
4 development with notification of intent to participate. The notification shall include,
5 but need not be limited to, the names and occupations of employees whom the
6 employer has selected to be trained, whether or not the employees are currently
7 working for the employer, the name of the local educational institution that will
8 provide the training, and a brief description of the training to be given by the
9 institution.

10 2. The employer shall have complete discretion in the selection of the local
11 educational institution or institutions to provide training and shall be responsible for
the payment of the costs of classroom training.]

2 [620.1440. 1. Employers may be reimbursed for the costs of training
3 provided pursuant to the provisions of the individual training account program. Such
4 reimbursement shall be in the form of tax credits as authorized in subsection 2 of this
5 section. The tax credits may be claimed for courses provided in no more than two
6 calendar years for each employee. For each year, the maximum amount of credit per
7 employee which can be certified by the department of economic development shall
8 be the lesser of fifty percent of the costs of classroom training or one thousand five
9 hundred dollars.

10 2. Tax credits may be claimed against any liability incurred by the employer
11 pursuant to the provisions of chapter 143, RSMo, and chapter 148, RSMo, exclusive
12 of the provisions relating to the withholding of tax as provided for in sections
13 143.191 to 143.265, RSMo. Earned tax credits may be carried forward for a period
14 not to exceed five years and may be sold or transferred.

15 3. No claim for tax credits submitted to the department by an employer shall
16 be certified until the employer provides documentation that an employee has
17 successfully completed the employee's course training and has been employed by the
employer in a new, full-time position for a period of at least three months. It must

18 be demonstrated satisfactorily to the department that the new position in which the
19 employee located is an upgrade in employment, in terms of salary and
20 responsibilities, from the previously held position. All such increases in salary shall
21 be in addition to normal cost-of-living increases provided for in authorized
22 labor-management contracts. If the employee was previously employed in a
23 part-time position, the base salary for the position shall be calculated as if it were a
24 full-time position.]

2 [620.1450. The maximum amount of tax credits allowable pursuant to the
provisions of the individual training account program shall not annually exceed six
3 million dollars.]

2 [620.1460. The department of economic development may promulgate
necessary rules and regulations to carry out the provisions of sections 620.1400 to
3 620.1460. No rule or portion of a rule promulgated pursuant to the authority of
4 sections 620.1400 to 620.1460 shall become effective unless it has been promulgated
5 pursuant to the provisions of chapter 536, RSMo.]

2 Section B. Because of the need to reallocate and extend the tax credits contained in this
act, section A of this act is deemed necessary for the immediate preservation of the public health,
3 welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of
4 the constitution, and section A of this act shall be in full force and effect upon its passage and
5 approval.